IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:10ev261

| GEORGE TURMON, |) |
|--------------------|---------------------|
| Plaintiff, |) |
| v. |)) <u>ORDER</u> |
| EATON CORPORATION, |) |
| Defendant. |) |
| |) |

Pending before the Court is Defendant's Motion to Compel [# 40]. Defendant served Plaintiff with its First Interrogatories and First Request for Production of Documents on December 8, 2010. Subsequently, the parties agreed to an extension of time until January 31, 2011, to respond to these requests. To date, Plaintiff has not responded to Defendant's requests. Defendant now moves to compel Plaintiff to respond to these requests. Plaintiff did not file a response to Defendant's motion. The Court **GRANTS** Defendant's Motion to Compel [# 40].

I. Analysis

Where a party fails to answer an interrogatory or respond to a request for production of documents, the party seeking discovery may move for an order compelling an answer and production. Fed. R. Civ. P. 37(a)(3)(B). Rule 37 also provides that if a court grants a motion to compel or the discovery is provided after the party files the motion, the court <u>must</u> require the party whose conduct necessitated the motion to pay the movant's reasonable expenses, including attorneys' fees, after

providing the party an opportunity to be heard. Fed. R. Civ. P. 37(a)(5)(A).

Plaintiff failed to respond to Defendant's discovery requests and has not

responded to the motion to compel. Prior to making the motion to compel, Defendant

attempted in good faith to obtain the relevant discovery from Plaintiff. Accordingly,

the Court GRANTS Defendant's Motion to Compel [# 40]. Plaintiff shall respond

to Defendant's requests by April 15, 2011. The Court also DIRECTS Plaintiff to

SHOW CAUSE in writing by April 15, 2011, why that Court should not award

Defendant its costs, including its reasonable attorneys' fees, pursuant to Rule

37(a)(5)(A).

II. Conclusion

The Court GRANTS Defendant's Motion to Compel [# 40]. Plaintiff shall

respond to Defendant's First Interrogatories and First Request for Production of

Documents by April 15, 2011. The Court DIRECTS Plaintiff to SHOW CAUSE in

writing by April 15, 2011, why the Court should not award Defendant its costs,

including its reasonable attorneys' fees, pursuant to Rule 37(a)(5)(A).

Signed: April 4, 2011

Dennis L. Howell

United States Magistrate Judge